

April 17, 1980

CONGRESSIONAL RECORD—SENATE

S 3883

As I am sure my colleagues will agree, this has been an unintentional oversight by Congress and one which should be corrected immediately. I only regret that it was not brought to Congress attention earlier. My interest in this matter transcends my personal experience as a refugee; I feel that this bill is inherently compelling and deserves wide support. ●

By Mr. CHURCH:

S. 2581. A bill to amend title 5 of the United States Code and the Internal Revenue Code of 1954 to provide certain benefits to individuals held hostage in Iran and to similarly situated individuals; to the Committee on Finance.

S. 2582. A bill to provide for the settlement and payment of claims of civilian and military personnel against the United States for losses in connection with the evacuation of such personnel from a foreign country; to the Committee on the Judiciary.

HOSTAGE RELIEF ACT OF 1980

● Mr. CHURCH. Mr. President, despite intensive diplomatic efforts, the militant students of Iran continue to hold U.S. Embassy personnel in gross violation of international law. During this uncertain period of time, the prisoners have suffered the extreme mental torment that normally flows from an unjust incarceration. In addition to the prisoners' intolerable situation, the families of these individuals have also undergone severe mental and, in many cases, financial strain due to the loss of their loved ones.

The new wave of international terrorism against U.S. diplomats underscores the dangers faced by the brave men and women who serve our country abroad. We must do everything we can to secure the prompt relief of our hostages and to enhance the security of our embassy personnel around the globe. At the same time, we also must not forget the families of the hostages. We must act to alleviate their burdens. We also must assure—to the extent we can—that upon their return, the hostages will be fully and appropriately compensated for their ordeal and that any assistance they may require will be readily available. It was with these objectives in mind that Congressman FASCELL and I are introducing the Hostage Relief Act.

This legislation would attempt to provide extensive tax, medical, educational, and legal relief for the hostages and their families. Specifically, this bill would:

First. Provide Government savings program at Treasury bill interest rates into which salaries of Government personnel being held hostage could be paid.

Second. Authorize payment of necessary travel, rest and recuperation, private medical, and other expenses incurred by Government personnel and families as a result of the individual's detention abroad by a hostile force. Payment would be made under Government-wide regulations to be issued by the President up to \$25,000.

Third. Authorize training for spouses of Federal civilian personnel held hostage similar to training provided through

the Veterans' Administration to spouses of military hostages.

Fourth. Extend the provisions of the Civil Relief Act of October 17, 1949, now applicable to members of the Armed Forces. This would defer civil actions that affect property rights until the hostages are released.

Fifth. Defer filing of tax returns and payment of income taxes to State and local governments. This is now done with respect to Federal income taxes by 5 U.S.C. 5568.

Sixth. Waive income taxes on compensation of Federal civilian and military personnel in a missing status abroad. This was done by 26 U.S.C. 112(d) for POW's in Vietnam conflict.

Seventh. Waive income taxes on certain compensation for Federal civilian employees assigned to a combat area or during periods of hospitalization resulting from hostile action abroad. This is authorized for military personnel in a combat zone. (26 U.S.C. 112(b))

Eighth. Cancel income taxes for Federal civilian employees who die as a result of hostile action abroad for taxable year in which death is determined to occur and for all prior years during which employee was in a missing status. This is authorized for military personnel who die as a result of service in a combat zone or in a missing status (26 U.S.C. 692)

Ninth. Authorize spouses of employees in a missing status to file a joint income tax return. This is now authorized by 26 U.S.C. 6013(f) when the President declares the status to result from service in a "combat zone."

Mr. President, I am also introducing at this time separate legislation to provide for the settlement and payment of claims of civilian and military personnel who suffer losses in connection with their evacuation from hostile situations abroad.

At present, employees who suffer loss of property because of evacuation from foreign posts may recover only \$15,000 from the Government under the Military Personnel and Civilian Employees' Claims Act of 1964. This amount of compensation is woefully outdated.

The legislation I am introducing today will raise this level of compensation to \$40,000.

Mr. President, I ask unanimous consent that the text of both bills be printed in the RECORD at this point, together with a section-by-section analysis of the Hostage Relief Act of 1980.

There being no objection, the bills and analysis were ordered to be printed in the RECORD, as follows:

S. 2581

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that this Act may be cited as the "Hostage Relief Act of 1980".

TITLE I—AMENDMENTS TO TITLE 5 OF THE UNITED STATES CODE

INCOME TAX DEFERMENT

Sec. 101. (a) Section 5568 of title 5 of the United States Code is repealed.

(b) The item in the analysis for chapter 55 of title 5, United States Code, relating to section 5568 is repealed.

Sec. 102. (a) Subchapter III of Chapter 55 of title 5 of the United States Code is amended by inserting at the end thereof the following:

"§ 5569. Savings program, training, and reimbursement of expenses.

"(a) The Secretary of the Treasury shall establish a savings fund to which the head of an agency may allot all or a portion of the pay and allowances of any employee who is in a missing status on or after November 4, 1979. Interest on the savings fund shall be compounded quarterly at the average rate paid on United States Treasury bills with three-month maturities issued during the calendar quarter immediately preceding the first day of the applicable pay period.

"(b) The President shall issue regulations to authorize the heads of agencies to reimburse any employee who is in a missing status on or after November 4, 1979, or dependent of such an employee, for expenses incurred on or after November 4, 1979, for necessary travel, rest and recuperation, private medical care, and other expenses related to the ordeal of the employee. Reimbursements under this subsection shall not exceed \$25,000 in any calendar year for any such employee, including all of his or her dependents, and shall not cover that portion of any expenses which may be paid for by insurance.

"(c) A spouse of an employee who is in a missing status on or after November 4, 1979, is entitled, under regulations prescribed by the President, to reimbursement for expenses incurred for tuition, books, fees, and subsistence while attending an educational or training institution. Reimbursement shall not exceed the maximum amount authorized to be paid to or on behalf of spouses of missing members of the Armed Forces under section 1731 of chapter 35, title 38, United States Code. Reimbursement under this subsection may be made for attendance at educational courses or training between the ninety-first day the employee is in a missing status and the end of the semester which follows the return of the employee to United States control, but not to exceed a total of 45 months. Educational assistance shall be discontinued under this subsection to any individual if such individual's conduct or educational progress is unsatisfactory under standards comparable to those established pursuant to section 1724 of title 38, United States Code.

"(d) Notwithstanding section 2105 or section 5561(2), for purposes of this section, the term 'employee' means—

"(1) an individual who is appointed in the civil service or the uniformed services (other than the Armed Forces), or

"(2) a citizen or resident alien of the United States whose presence abroad is for the purpose of performing a Federal function, as determined, by rule, by the Secretary of State.

"§ 5570. Extension of applicability of certain provisions of the Soldiers' and Sailors' Civil Relief Act of 1940.

"Pursuant to rules to be issued by the Secretary of State, a citizen or resident alien of the United States who is in a missing status on or after November 4, 1979, is entitled to the benefits provided by the Soldiers' and Sailors' Civil Relief Act of 1940 (50 U.S.C. App. 501 et seq.), except for the benefits provided by sections 104, 105, 106, 401 through 408, 501 through 512, and 514. To carry out this section, when referred to in such Act the term 'person in the military service' is deemed to include any such citizen or resident alien, and the term 'period of military service' is deemed to include the period during which such citizen or resident alien is in a missing status as the result of a hostile action against the United States as determined by the Secretary of State or is

S 3884

CONGRESSIONAL RECORD—SENATE

April 17, 1980

precluded from reasonable postal communications as the result of hostile actions against a diplomatic mission, consular mission, or other Foreign Service post of the United States as determined by the Secretary of State. To carry out this section, when referred to in such Act, references to the Secretary of the Army, the Secretary of the Navy, the Administrator of Veterans' Affairs, and the Veterans' Administration are deemed to be references to the Secretary of State. A citizen or resident alien is deemed to be in a missing status if the individual satisfies the requirement of subparagraph (A), (B), (C), (D), or (E) of paragraph (5) of section 5561, but, in the case of an employee, does not include the status of an employee for a period during which such employee is officially determined to be absent from his post of duty without authority."

(b) The analysis for chapter 55 of title 5, United States Code, is amended by inserting after the item relating to section 5568 the following new items:

"5569. Savings program, training, and reimbursement of expenses.

"5570. Extension of applicability of certain provisions of the Soldiers' and Sailors' Civil Relief Act of 1940."

(c) Subsections (b) and (c) of section 5569 of title 5 of the United States Code shall be applicable to all citizens and resident aliens of the United States determined by the Secretary of State to be held hostage in Teheran at any time during November 1979 and to their dependents and spouses, as the case may be, whether or not such citizens and resident aliens are Federal employees for purposes of such subsections. Any reimbursements with respect to any such individuals under such subsections shall be made by the Secretary of State.

(d) Paragraph (2) of section 5561 of title 5, United States Code, is amended by inserting "except with respect to section 5569," after "means".

EFFECTIVE DATE

SEC. 103. The amendments made by section 101 shall apply to taxable years ending on or after December 31, 1979, and the amendments made by section 102 shall take effect on November 4, 1979.

TITLE II—AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1954

CERTAIN PAY RECEIVED BY HOSPITALIZED FEDERAL EMPLOYEES

SEC. 201. Section 112 of the Internal Revenue Code of 1954 (relating to certain combat pay of members of the Armed Forces) is amended by inserting at the end thereof the following new subsection:

"(e) FOREIGN HOSTILE ACTIONS.—

"(1) FEDERAL EMPLOYEES.—Gross income does not include compensation received for active service as an employee for any month during any part of which such employee—

"(A) was in a missing status as the result of any hostile action against the United States; or

"(B) was hospitalized as a result of wounds, injury, disease, or partial or total physical or mental disablement incurred during a hostile action against the United States; but this subparagraph shall not apply for any month beginning more than 2 years after the date of the termination of the hostile action.

"(2) DEFINITIONS.—For purposes of paragraph (1)—

"(A) HOSTILE ACTION.—The term 'hostile action' against the United States means an action abroad which is directed against the United States and occurs on or after November 1, 1979, which the Secretary of State identifies in a letter to the Secretary and which letter is published in the Federal Register.

"(B) FEDERAL EMPLOYEE.—The terms 'active service' and 'missing status' have the respective meanings given to such terms by section 5561 of title 5 of the United States Code, and the term 'employee' has the meaning given to such term by section 5569(d) of title 5 of the United States Code."

INCOME TAXES ON FEDERAL EMPLOYEES ON DEATH: RESERVATION FROM HOSTILE ACTIONS IN FOREIGN COUNTRIES

SEC. 202. Section 692 of the Internal Revenue Code of 1954 (relating to income taxes of members of Armed Forces on death) is amended by inserting at the end thereof the following new subsection:

"(c) FOREIGN HOSTILE ACTIONS.—

(1) GENERAL RULE.—In the case of any individual who dies on or after November 1, 1979, while in active service as an employee, if such death occurred as a result of wounds, injury, disease, or partial or total physical or mental disablement incurred during a hostile action against the United States—

"(A) any tax imposed by this subtitle shall not apply with respect to the taxable year in which falls the date of such individual's death, or with respect to any prior taxable year ending on or after the first day such individual was in a missing status within the meaning of section 112(e); and

"(B) any tax under this subtitle which is unpaid at the date of such individual's death (including interest, additions to the tax, and additional amounts) shall not be assessed, and if assessed the assessment shall be abated, and if collected shall be credited or refunded as an overpayment.

For purposes of this paragraph, the date of death shall be treated as being not earlier than the date on which a determination of such individual's death is made under section 5565 of title 5 of the United States Code. This paragraph shall not apply for any taxable year beginning more than 2 years after the date of termination of the hostile action as determined for purposes of section 112(e).

"(2) DEFINITIONS.—For purposes of paragraph (1), the term 'active service' has the meaning given to such term by section 5561 of title 5 of the United States Code, the term 'employee' has the meaning given to such term by section 5569(d) of title 5 of the United States Code, and the term 'hostile action against the United States' has the meaning given to such term by section 112(e) (2) (A)."

JOINT RETURN WHERE INDIVIDUAL IS IN A MISSING STATUS

SEC. 203. (a) Paragraph (1) of section 6013 (f) of the Internal Revenue Code of 1954 (relating to election by spouse) is amended—

(1) by inserting "or as the result of a hostile action against the United States (as determined for purposes of section 112(e))" after "section 112)" in subparagraph (A); and

(2) by inserting "or which begins on or before the day which is 2 years after the date as determined for purposes of section 112(e) as the date of termination of the missing status of such individual" after "zone" in subparagraph (B).

(b) Paragraph (3) of section 6013(f) of the Internal Revenue Code of 1954 (relating to missing status) is amended by inserting at the end thereof the following new subparagraph:

"(C) CITIZENS AND RESIDENT ALIENS.—A citizen or resident alien of the United States (other than an individual referred to in subparagraph (A) or (B)) is in a missing status for any period during which such individual satisfies the requirement of subparagraph (A), (B), (C), (D), or (E) of paragraph (5) of section 5561 of title 5 of the United States Code as determined by the Secretary of State."

FEDERAL PAY OVERPAYMENT
SEC. 204. (a) Section 5569 of the Internal Revenue Code of 1954 (relating to time to be disregarded) is amended to read as follows:

"(a) TIME TO BE DISREGARDED.—In the case of—

"(1) an individual serving in the Armed Forces of the United States, or serving in support of such Armed Forces, in an area designated by the President of the United States by Executive order as a 'combat zone' for purposes of section 112, at any time during the period designated by the President by Executive order as the period of combatant activities in such zone for purposes of such section, or hospitalized outside the United States as a result of injury received while serving in such an area during such time, the period of service in such area, plus the period of continuous hospitalization outside the United States attributable to such injury; or

"(2) a citizen or resident alien of the United States who is in a missing status within the meaning of section 112(e) or hospitalized outside the United States as the result of wounds, injury, disease, or partial or total physical or mental disablement incurred during a hostile action against the United States within the meaning of section 112(e), the period of such missing status plus the period of continuous hospitalization outside the United States attributable to such wounds, injury, disease, or disablement; and

the next 180 days thereafter shall be disregarded in determining, under the internal revenue laws, in respect of any tax liability (including any interest, penalty, additional amount, or addition to the tax) of such individual—

"(A) Whether any of the following acts was performed within the time prescribed therefor:

"(i) Filing any return of income, estate, or gift tax (except income tax withheld at source and income tax imposed by subtitle C or any law superseded thereby);

"(ii) Payment of any income, estate, or gift tax (except income tax withheld at source and income tax imposed by subtitle C or any law superseded thereby) or any installment thereof or of any other liability to the United States in respect thereof;

"(iii) Filing a petition with the Tax Court for redetermination of a deficiency, or for review of a decision rendered by the Tax Court;

"(iv) Allowance of a credit or refund of any tax;

"(v) Filing a claim for credit or refund of any tax;

"(vi) bringing suit upon any such claim for credit or refund;

"(vii) Assessment of any tax;

"(viii) Giving or making any notice or demand for the payment of any tax, or with respect to any liability to the United States in respect of any tax;

"(ix) Collection, by the Secretary, by levy or otherwise, of the amount of any liability in respect of any tax;

"(x) Bringing suit by the United States, or any officer on its behalf, in respect of any liability in respect of any tax; and

"(xi) Any other act required or permitted under the internal revenue laws specified in regulations prescribed under this section by the Secretary;

(B) The amount of any credit or refund (including interest).

In the case of a citizen or resident alien of the United States who is not an employee within the meaning of section 5569(d) of title 5 of the United States Code, such individual is in a missing status for purposes of this subsection for any period during which such individual satisfies the requirement of subparagraph (A), (B), (C), (D), or (E) of